

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Elections and Apportionment, to which was referred Senate Bill 136, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 1-1-3.5-3, AS AMENDED BY P.L.170-2002,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2003]: Sec. 3. (a) For purposes of the statutes described in
- 6 section 5(c) of this chapter, a reference to population is a reference to
- 7 population as determined by the most recent of the following:
- 8 (1) Federal decennial census.
- 9 (2) Federal special census.
- 10 (3) Special tabulation.
- 11 (4) Corrected population count.
- 12 (b) **For purposes of statutes relating to drawing boundaries of**
- 13 **county executive districts, county fiscal body districts, municipal**
- 14 **legislative body districts, or the districts of any other political**
- 15 **subdivision, a reference to population is a reference to population**
- 16 **as determined by the most recent of the following:**

(1) Federal decennial census.

(2) Federal special census.

(3) Special tabulation.

(4) Corrected population count.

(c) For purposes of a noncode statute, a reference to population is the population determined by the most recent federal decennial census in effect before the passage of the statute, unless the population description in the statute is changed by subsequent legislation.

~~(c)~~ (d) For purposes of statutes not described in subsection (a), ~~or~~ (b), ~~or~~ (c), a reference to population is the population determined by the most recent federal decennial census in effect, unless the statute specifically provides otherwise.

~~(d)~~ (e) This subsection applies to a political subdivision located in more than one (1) county. If a political subdivision is described in a statute by reference to the county in which the political subdivision is located, the reference is to the county that contains a majority of the population of the political subdivision.

~~(e)~~ (f) The effective date of each:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

is April 1 of the calendar year following the year in which the tabulation of population or corrected population count is delivered to the state by the United States Secretary of Commerce under 13 U.S.C. 141 and received by the governor.

~~(f)~~ (g) Promptly upon receiving the tabulation of population or corrected population count, the governor shall issue an executive order:

- (1) evidencing the date of receipt; and
- (2) noting that the effective date of the tabulation of population or corrected population count for purposes of any statute described in this section is April 1 of the following year."

Page 1, line 17, after "(a)" insert "**This section applies after December 31, 2003.**

(b)".

Page 2, line 4, delete "(b)" and insert "(c)".

Page 2, delete lines 7 through 19.

Page 5, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 11. IC 3-8-1-2, AS AMENDED BY P.L.176-1999, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The commission, a county election board, or a town election board shall act if a candidate (or a person acting on behalf of a candidate in accordance with state law) has filed any of the following:

(1) A declaration of candidacy under IC 3-8-2 or IC 3-8-5.

(2) A request for ballot placement in a presidential primary under IC 3-8-3.

(3) A petition of nomination or candidate's consent to nomination under IC 3-8-6.

(4) A certificate of nomination under IC 3-8-5, IC 3-8-7, IC 3-10-2-15, or IC 3-10-6-12.

(5) A certificate of candidate selection under IC 3-13-1 or IC 3-13-2.

(6) A declaration of intent to be a write-in candidate under IC 3-8-2-2.5.

(7) A contest to the denial of certification under IC 3-8-6-12.

(b) The commission has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the election division. Except for a filing under the jurisdiction of a town election board, a county election board has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the county election board, county voter registration office, or the circuit court clerk. A town election board has jurisdiction to act under this section with regard to any filing that was made with the county election board, the county voter registration office, or the circuit court clerk for nomination or election to a town office.

(c) **Except as provided in subsection (e)**, before the commission or election board acts under this section, a registered voter of the election district that a candidate seeks to represent must file a sworn statement with the election division or election board:

(1) questioning the eligibility of a candidate to seek the office;
and

(2) setting forth the facts known to the voter concerning this question.

(d) The eligibility of a write-in candidate or a candidate nominated by a convention, petition, or primary may not be challenged under this

section if the commission or board determines that all of the following occurred:

- (1) The eligibility of the candidate was challenged under this section before the candidate was nominated.
- (2) The commission or board conducted a hearing on the affidavit before the nomination.
- (3) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.

(e) **Before the commission or election board can consider a contest to the denial of a certification under IC 3-8-6-12, a candidate (or a person acting on behalf of a candidate in accordance with state law) must file a sworn statement with the election division or election board:**

- (1) stating specifically the basis for the contest; and**
- (2) setting forth the facts known to the candidate supporting the basis for the contest.**

(f) Upon the filing of a sworn statement under subsection (c) **or** (e), the commission or election board shall determine the validity of the questioned:

- (1) declaration of candidacy;
- (2) declaration of intent to be a write-in candidate;
- (3) request for ballot placement under IC 3-8-3;
- (4) petition of nomination;
- (5) certificate of nomination; ~~or~~
- (6) certificate of candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8; **or**
- (7) denial of a certification under IC 36-8-6-12.**

~~(f)~~ (g) The commission or election board shall deny a filing if the commission or election board determines that the candidate has not complied with the applicable requirements for the candidate set forth in the Constitution of the United States, the Constitution of the State of Indiana, or this title."

Page 8, between lines 22 and 23, begin a new paragraph and insert:
 "SECTION 14. IC 3-8-6-12, AS AMENDED BY P.L.26-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A petition of nomination for an office filed under section 10 of this chapter must be filed with and, **except as provided in subsection (d)**, certified by the person with whom a

1 declaration of candidacy must be filed under IC 3-8-2.

2 (b) The petition of nomination must be accompanied by the
3 following:

4 (1) The candidate's written consent to become a candidate.

5 (2) A statement that the candidate:

6 (A) is aware of the provisions of IC 3-9 regarding campaign
7 finance and the reporting of campaign contributions and
8 expenditures; and

9 (B) agrees to comply with the provisions of IC 3-9.

10 The candidate must separately sign the statement required by this
11 subdivision.

12 (3) If the candidate is subject to IC 3-9-1-5, a statement by the
13 candidate that the candidate has filed a campaign finance
14 statement of organization under IC 3-9-1-5 or is aware that the
15 candidate may be required to file a campaign finance statement of
16 organization not later than noon seven (7) days after the final date
17 for filing a petition for nomination under section 10 of this
18 chapter.

19 (4) If the candidate is subject to IC 3-9-1-5.5, a statement by the
20 candidate that the candidate is aware of the requirement to file a
21 campaign finance statement of organization under IC 3-9 after the
22 first of either of the following occurs:

23 (A) The candidate receives more than five hundred dollars
24 (\$500) in contributions.

25 (B) The candidate makes more than five hundred dollars
26 (\$500) in expenditures.

27 (5) A statement indicating whether or not each candidate:

28 (A) has been a candidate for state or local office in a previous
29 primary or general election; and

30 (B) has filed all reports required by IC 3-9-5-10 for all
31 previous candidacies.

32 (6) A statement that each candidate is legally qualified to hold the
33 office that the candidate seeks, including any applicable residency
34 requirements and restrictions on service due to a criminal
35 conviction.

36 (7) If the petition is filed with the secretary of state for an office
37 not elected by the electorate of the whole state, a statement signed
38 by the circuit court clerk of each county in the election district of

- 1 the office sought by the individual.
- 2 (8) Any statement of economic interests required under
- 3 IC 3-8-1-33.
- 4 (c) The statement required under subsection (b)(7) must:
- 5 (1) be certified by each circuit court clerk; and
- 6 (2) indicate the number of votes cast for secretary of state:
- 7 (A) at the last election for secretary of state; and
- 8 (B) in the part of the county included in the election district of
- 9 the office sought by the individual filing the petition.
- 10 (d) **The person with whom the petition of nomination must be**
- 11 **filed under subsection (a) shall:**
- 12 **(1) determine whether a sufficient number of signatures as**
- 13 **required by section 3 of this chapter have been obtained; and**
- 14 **(2) do one (1) of the following:**
- 15 **(A) If the petition includes a sufficient number of**
- 16 **signatures, certify the petition.**
- 17 **(B) If the petition has an insufficient number of signatures,**
- 18 **deny the certification.**
- 19 (e) The secretary of state shall, by noon August 20:
- 20 (1) certify; **or**
- 21 **(2) deny certification under subsection (d) to;**
- 22 each petition of nomination filed in the secretary of state's office to the
- 23 appropriate county.
- 24 ~~(e)~~ **(f)** The commission shall provide that the form of a petition of
- 25 nomination includes the following information near the separate
- 26 signature required by subsection (b)(2):
- 27 (1) The dates for filing campaign finance reports under IC 3-9.
- 28 (2) The penalties for late filing of campaign finance reports under
- 29 IC 3-9.
- 30 ~~(f)~~ **(g)** A candidate's consent to become a candidate must include a
- 31 statement that the candidate requests the name on the candidate's voter
- 32 registration record be the same as the name the candidate uses on the
- 33 consent to become a candidate. If there is a difference between the
- 34 name on the candidate's consent to become a candidate and the name
- 35 on the candidate's voter registration record, the officer with whom the
- 36 consent to become a candidate is filed shall forward the information to
- 37 the voter registration officer of the appropriate county as required by
- 38 IC 3-5-7-6(e). The voter registration officer of the appropriate county

shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to become a candidate.

(h) If the person with whom the petition was filed denies certification under subsection (d), the person shall notify the candidate immediately by certified mail.

(i) A candidate may contest the denial of certification under subsection (d) based on:

(1) the circuit court clerk's or board of registration's failure to certify, under section 8 of this chapter, qualified petitioners; or

(2) the determination described in subsection (d)(1); using the procedure in IC 3-8-1-2 and section 14 of this chapter that applies to questions concerning the validity of a petition of nomination."

Page 8, line 34, after "state" insert **"or contesting the denial of certification under section 12(d) of this chapter"**.

Page 8, line 36, after "nomination" insert **"or contesting the denial of certification under section 12(d) of this chapter"**.

Page 8, line 36, after "IC 3-8-1-2(c)" insert **"or IC 3-8-1-2(e)"**.

Page 8, line 40, after "clerk" insert **"or contesting the denial of certification under section 12(d) of this chapter"**.

Page 8, line 42, after "nomination" insert **"or contesting the denial of certification under section 12(d) of this chapter"**.

Page 9, line 1, after "IC 3-8-1-2(c)" insert **"or IC 3-8-1-2(e)"**.

Page 9, line 7, after "nomination" insert **"or the denial of certification under section 12(d) of this chapter"**.

Page 11, between lines 5 and 6, begin a new paragraph and insert:
"SECTION 19. IC 3-9-3-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section does not apply to the following:

(1) A communication relating to an election to a federal office.

(2) A person whose sole act is, in the normal course of business, participating in the preparation, printing, distribution, or broadcast of the advertising or material containing the false representation.

(b) As used in this section, "officeholder" refers to a person who holds an elected office.

(c) A person may not knowingly or intentionally authorize,

1 **finance, sponsor, or participate in the preparation, distribution, or**
 2 **broadcast of paid political advertising or campaign material that**
 3 **falsely represents that a candidate in any election is or has been an**
 4 **officeholder."**

5 Page 12, between lines 10 and 11, begin a new line block indented
 6 and insert:

7 **"(13) Violates IC 3-9-3-5."**

8 Page 13, line 21, after "(h)" insert **"This subsection applies to a**
 9 **person who is subject to a civil penalty under subsection (a)(13). If**
 10 **the commission determines that a person has violated IC 3-9-3-5,**
 11 **the commission may assess a civil penalty of not more than five**
 12 **hundred dollars (\$500), plus any investigative costs incurred and**
 13 **documented by the election division.**

14 **(i)".**

15 Page 13, line 24, delete "(i)" and insert **"(j)".**

16 Page 14, between lines 12 and 13, begin a new line block indented
 17 and insert:

18 **"(12) Violates IC 3-9-3-5."**

19 Page 15, line 14, after "(g)" insert **"This subsection applies to a**
 20 **person who is subject to a civil penalty under subsection (a)(12). If**
 21 **the county election board determines that a person has violated**
 22 **IC 3-9-3-5, the board may assess a civil penalty of not more than**
 23 **five hundred dollars (\$500), plus any investigative costs incurred**
 24 **and documented by the board.**

25 **(h)".**

26 Page 15, line 20, delete "(h)" and insert **"(i)".**

27 Page 15, line 22, delete "(i)" and insert **"(j)".**

28 Page 16, line 28, after "a contribution" insert **"of".**

29 Page 16, line 30, reset in roman "at least one thousand dollars
 30 (\$1,000);".

31 Page 16, line 31, after "(2)" insert **"that are".**

32 Page 17, between lines 12 and 13, begin a new paragraph and insert:

33 **"SECTION 28. IC 3-10-1-13 IS AMENDED TO READ AS**
 34 **FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The primary**
 35 **election paper ballots and ballot cards of each political party must be**
 36 **of uniform size and of the same quality paper as the paper ballots and**
 37 **ballot cards used at the general election. The paper ballots and ballot**
 38 **cards must be **distinctively marked or be** of a different color ~~for so~~**

1 **that the ballots of each party holding a primary election: are easily**
 2 **distinguishable.** All the candidates representing one (1) party shall be
 3 placed on one (1) ticket with the name of the party placed at the top in
 4 the form prescribed by section 19 of this chapter."

5 Page 20, between lines 22 and 23, begin a new paragraph and insert:
 6 "SECTION 34. IC 3-11-2-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Each county election
 8 board shall have the:

9 (1) names of all candidates for United States Representative,
 10 legislative offices, and local offices; and
 11 (2) local public questions;
 12 in election districts within the county printed on ~~ballots~~ **a ballot** as
 13 provided in this chapter. **The county may print all offices on a single**
 14 **ballot under this section.**

15 SECTION 35. IC 3-11-2-4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~(a) Except as~~
 17 ~~provided in subsection (c); the election division and county election~~
 18 ~~boards shall use the following colors for paper ballots:~~

19 ~~(1) For President and Vice President of the United States; cherry~~
 20 ~~red paper:~~

21 ~~(2) For United States Senator; state offices; and public questions;~~
 22 ~~if the public question:~~

23 ~~(A) is voted on by the entire electorate of Indiana; or~~
 24 ~~(B) concerns the retention of a justice of the Indiana supreme~~
 25 ~~court or a judge of the Indiana court of appeals;~~
 26 ~~pink paper:~~

27 ~~(3) For municipal offices; blue paper:~~

28 ~~(4) For township offices; yellow paper:~~

29 ~~(5) For United States Representative; county offices; school board~~
 30 ~~offices; and all other offices; white paper:~~

31 ~~(6) For local public questions; green paper:~~

32 ~~(b) The chairman or committee responsible for supplying pasters~~
 33 ~~under IC 3-11-3-29 shall supply pasters of the same color as the ballot~~
 34 ~~on which the paster will be placed.~~

35 ~~(c) A county election board, by unanimous vote of its entire~~
 36 ~~membership, may print ballots for township offices in any color if the~~
 37 ~~ballot for township offices in each township within the county is not the~~
 38 ~~same color as any:~~

- 1 (1) ~~other township ballot within the county; or~~
 2 (2) ~~ballot for other offices or public questions listed in subsection~~
 3 ~~(a):~~".

4 Page 20, line 23, after "IC 3-11-4-8" insert ", AS AMENDED BY
 5 P.L.126-2002, SECTION 53,".

6 Page 22, delete lines 16 through 22.

7 Page 22, line 28, delete "voter" and insert "**voting**".

8 Page 26, delete lines 23 through 38.

9 Page 27, between lines 6 and 7, begin a new paragraph and insert:

10 "SECTION 52. IC 3-14-3-16 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) As used in this
 12 section, "electioneering" includes expressing support or opposition to
 13 any candidate or political party or expressing approval or disapproval
 14 of any public question in any manner that could reasonably be expected
 15 to convey that support or opposition to another individual.

16 (b) A person who knowingly does any electioneering:

17 (1) on election day within:

18 (A) the polls; or

19 (B) fifty (50) feet of the entrance to the polls; or

20 (2) within an area in the office of the circuit court clerk used by
 21 an absentee voter board to permit an individual to cast an
 22 absentee ballot;

23 commits a ~~Class D felony~~; **Class A misdemeanor**.

24 SECTION 53. IC 3-14-4-9 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. An election officer
 26 who knowingly:

27 (1) discloses to a person the name of a candidate for whom a voter
 28 has voted or how a voter voted on a public question; or

29 (2) does any electioneering on election day;

30 commits a ~~Class D felony~~; **Class A misdemeanor**."

31 Page 31, delete lines 27 through 28, begin a new paragraph and
 32 insert:

33 "SECTION 55. IC 3-11-13-4 IS REPEALED [EFFECTIVE JULY
 34 1, 2003].

1 SECTION 56. [EFFECTIVE JULY 1, 2003] **IC 3-8-1-2,**
2 **IC 3-8-6-12, and IC 3-8-6-14, all as amended by this act, apply to**
3 **all elections held after December 31, 2003."**

4 Renumber all SECTIONS consecutively.
 (Reference is to SB 136 as reprinted February 4, 2003.)

and when so amended that said bill do pass.

Representative Mahern